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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,219	08/23/2005	Masamitsu Iwatani	2418.80US01	4107

7590 03/15/2007  
Douglas J Christensen  
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Minneapolis, MN 55402

EXAMINER
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HERNANDEZ, MICHAEL

ART UNIT	PAPER NUMBER
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3612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/524,219

Applicant(s)

IWATANI ET AL.

Examiner

Mike Hernandez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/9/2005</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Group 1: Fig 2 – 11 disclose a single roller 46 guided along the entire length of cam surface 47.

Group 2: Fig 12 and 13 disclose a roller 61 for horizontal movement and a roller 46 for oblique movement.

Group 3: Fig 18 – 27 disclose a spring loaded pivoting cam surface 247.

Group 4: Fig 28 – 31 disclose two rollers 261,262 on a pivot arm 263.

Group 5: Fig 32 – 38 disclose an arm-receiving member 347 as the cam surface.

Figures 1, and 14 – 17 are generic to all species.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Group 1: claims 1-3, and 5-8.

Group 2: claim 4

Group 3: claims 9-11

Group 4: claim 12

Group 5: claims 13-16

The following claim(s) are generic: 1.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Each species discloses a different support method for supporting the raising/lowering arm as it moves from a retreated position to an advanced position.

During a telephone conversation with Mr. Douglas Christensen on 13 March 2007 a provisional election was made without traverse to prosecute the invention of Group 1, claims 1-3 and 5-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4, and 9-16 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

Figure 17 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

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abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 1 through 3, and 5 through 8 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 states, "an ascent/descent guide member...to guide the seat raising/lowering arm such that it is vertically rotated..." The term "it" is confusing as to which of either the ascent/descent guide member or the raising/lowering arm is being vertically rotated.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 through 3, and 6 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,769,480 to Gebhardt.

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Regarding claim 1, Gebhardt discloses (Col 7 Ln 5-15, Fig 9, 11) a vehicle seat moving apparatus for moving a seat main body 24 between an interior position of a vehicle cabin and an exterior position of the vehicle cabin that is positioned below the interior position, comprising: a slide base 64 provided to a vehicle floor side to as to be horizontally movable between a retreated position and an advanced position; a driving device 62 for moving the slide base; a seat raising/lowering arm 110 that supports the main body at one end and is vertically rotatably attached to the slide base via a rotation fulcrum at the other end; and an ascent/descent guide member 90,92 that is provided to the vehicle floor side and is adapted to guide the seat raising/lowering arm such that it is vertically rotated as the slide base moves, wherein the seat raising/lowering arm is provided with a supported portion 84,85 and the ascent/descent guide member is provided with an inclined guide surface 92 that is gradually lowered toward an exterior of the vehicle cabin, and wherein as the slide base moves, the supported portion is along the inclined guide surface so that the seat raising/lowering arm is vertically tilted while a distance between the rotation fulcrum and the supported portion is maintained at a fixed interval.

As to claim 2, Gebhardt discloses the supported portion is disposed in the vicinity of the rotation fulcrum at the other end with respect to the slide base.

As to claim 3, Gebhardt discloses (Col 5 Ln 13-20) the ascent/descent guide member has a horizontal guide surface on which the supported portion horizontally moves when the slide base is moved from the advanced position to the retreated position.

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As to claim 6, Gebhardt discloses the ascent descent guide member comprises a cam plate, wherein the supported portion of the seat raising/lowering arm comprises a roller that rolls on the cam plate.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5 and 7 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Gebhardt.

Regarding claim 5, Gebhardt discloses an inclined guide surface that guides a supported portion moving obliquely downward; however, fails to disclose the guide member having a stopper portion.

It is common knowledge in the art to stop a slide via a stopper.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

As to claim 7, Gebhardt discloses (Col 5 Ln 48-52) the seat raising/lowering arm comprises two plates 108,110 that are arranged at a predetermined interval and a

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connecting member 136 that interconnects opposing end portions of the two plates.

Gebhardt shows (Fig 3) the rollers 84,85 are disposed on the outer sides of the raising/lowering arm plates 108,110.

It would have been obvious to one of ordinary skill in the art to modify the device of Gebhardt by disposing the rollers between the two plates in order to decrease the apparatus width.

**Claim 8 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Gebhardt in view of US Pat No 5,524,952 to Czech et al.

Gebhardt discloses a seat moving apparatus as applied to claim 1 previously, however fails to disclose the driving device comprising an electric motor and screw shaft.

Czech et al. teaches (Col 6 Ln 50-55) a vehicle seat moving apparatus wherein the driving device for the slide base comprises an electric motor 32, a screw shaft 70 rotated by the electric motor, and a nut 74 meshing with the screw shaft, and wherein the screw shaft is provided with a stopper member 128, so that when a relative moving amount of the screw shaft and the nut in an axial direction exceeds a predetermined value, the stopper member contacts the nut, thereby restraining further relative movement (Col 7 Ln 61-64).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References A through K each disclose a seat moving apparatus that is similar to the present invention.



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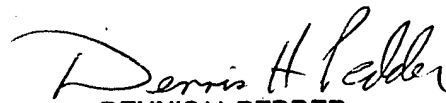
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Hernandez whose telephone number is 571-272-2354. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MJH 3/14/07



DENNIS H. PEDDER  
PRIMARY EXAMINER

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3/14/07